

SENATE BILL 18

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M2

2002 Regular Session  
(2lr0452)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Environmental Matters --

Introduced by **Senator Miller**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Waterfowl~~ **Riparian Property - Potomac River - Stationary Blind and Blind**  
3 **Site Licensing**

4 FOR the purpose of ~~repealing the prohibition on the ability of certain owners of~~  
5 ~~certain property in certain states to license their shoreline adjacent to the~~  
6 ~~Potomac River to establish certain blinds or blind sites; authorizing owners of~~  
7 ~~certain property in a certain state to license their shoreline adjacent to certain~~  
8 ~~waters of the Potomac River to establish certain blinds or blind sites; providing~~  
9 ~~for the effective date of this Act~~ altering a certain prohibition on the licensing of  
10 certain stationary blinds or blind sites by owners of certain riparian property  
11 adjacent to the Potomac River; authorizing the licensing of certain stationary  
12 blinds or blind sites by owners of certain riparian property adjacent to the  
13 Potomac River; and generally relating to the licensing of certain stationary  
14 blinds and blind sites by owners of certain riparian property adjacent to the  
15 Potomac River.

16 BY repealing and reenacting, with amendments,

1 Article - Natural Resources  
2 Section 10-607(a)  
3 Annotated Code of Maryland  
4 (2000 Replacement Volume and 2001 Supplement)

5 BY repealing and reenacting, without amendments,  
6 Article - Natural Resources  
7 Section 10-607(b)  
8 Annotated Code of Maryland  
9 (2000 Replacement Volume and 2001 Supplement)

10 *Preamble*

11 WHEREAS, Under Chapter 4 of the Acts of the General Assembly of the First  
12 Special Session of 1973, the Maryland General Assembly enacted the nonsubstantive  
13 code revision of a new Natural Resources Article; and

14 WHEREAS, Although the Court of Appeals has held that this 1973 Act did not  
15 effectuate a substantive change in the law, Bureau of Mines v. George's Creek, 272 Md.  
16 143, 155 (1974), language inserted by that Act prohibiting a nonresident from  
17 obtaining a stationary blind or blind site license for riparian shoreline did cast doubt  
18 on the rights of out-of-state riparian owners to obtain this license; and

19 WHEREAS, In the process of transferring blind site licensing authority from the  
20 clerks of court to the Department of Natural Resources, Chapter 703 of the Acts of 1999  
21 added an express prohibition on the blind site licensing of nonresident riparian owners  
22 adjacent to the Potomac River; and

23 WHEREAS, In its September 7, 2001 review of this issue, the Office of the  
24 Attorney General of Maryland found that, under the Privileges and Immunities Clause  
25 of the U. S. Constitution, the denial of shoreline licensing rights solely to out-of-state  
26 residents has an unconstitutional effect on the commercial rights of these individuals;  
27 and

28 WHEREAS, The tidal portion of the Potomac is bordered by Virginia and  
29 Maryland, and its shoreline is well suited to licensing stationary blinds and blind  
30 sites; and

31 WHEREAS, The nontidal portion of the Potomac is bordered by Virginia, West  
32 Virginia, and Maryland, and the vast majority of this Maryland shoreline is owned by  
33 the federal government and is, therefore, unavailable for shoreline licensing; and

34 WHEREAS, What little of the nontidal Potomac shoreline in Maryland that is  
35 not federally owned consists of both mainland shoreline and islands; and

36 WHEREAS, Given the statutory authorization of hunting wild waterfowl from a  
37 boat that is drifting or being sculled, also known as "sneak boating", in the nontidal  
38 waters of the Potomac River under § 10-605(a) of the Natural Resources Article, the

1 mainland shoreline is not appropriate for the establishment of stationary blinds or  
 2 blind sites; and

3 WHEREAS, The island shoreline, which is better suited for the establishment of  
 4 these blinds and blind sites, is an area for which shoreline licenses are already issued;  
 5 and

6 WHEREAS, The General Assembly seeks to address prior oversights in the law  
 7 regarding the shoreline licensing rights of nonresidents and to correct this inadvertent  
 8 discrimination to the fullest extent possible, while recognizing the limitations operative  
 9 on the mainland portion of the State shoreline that is adjacent to the nontidal Potomac  
 10 River; and

11 WHEREAS, The General Assembly hereby provides for the equal treatment of  
 12 residents and nonresidents in the licensing of stationary blinds and blind sites along  
 13 the Potomac shoreline in Maryland by authorizing the issuance of these licenses along  
 14 shoreline that is adjacent to the tidal waters of the Potomac River, as well as on the  
 15 island shoreline that is adjacent to the nontidal waters of the Potomac, and by  
 16 prohibiting the issuance of licenses along the mainland shoreline that is adjacent to  
 17 the Potomac's nontidal waters; now, therefore,

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Natural Resources**

21 10-607.

22 (a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
 23 SUBSECTION, THIS section shall apply only to owners of riparian property in  
 24 Maryland regardless of the residency of the owner.

25 (2) ~~Persons~~ PERSONS UNDER THIS SUBTITLE, PERSONS owning riparian property  
 26 in:

27 (I) MARYLAND OR Virginia [or West Virginia] that is adjacent to  
 28 the TIDAL WATERS OF THE Potomac River may [not] license ~~their~~ STATE shoreline  
 29 ~~under this subtitle; AND~~

30 (II) MARYLAND, VIRGINIA, OR WEST VIRGINIA THAT IS ADJACENT  
 31 TO THE NONTIDAL WATERS OF THE POTOMAC RIVER:

32 1. MAY LICENSE STATE ISLAND SHORELINE; AND

33 2. MAY NOT LICENSE STATE MAINLAND SHORELINE.

34 (b) Riparian landowners may license their riparian shoreline:

35 (1) To establish offshore stationary blinds or blind sites for hunting wild  
 36 waterfowl; and

1                   (2)       To prevent other persons from licensing the riparian shoreline for the  
2 purpose of hunting wild waterfowl offshore.

3       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 June 1, 2002.